

ORIGINAL



0000141252

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2013 JAN -3 P 1:35

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 08 2013

DOCKETED BY

ZM

IN THE MATTER OF THE APPLICATION OF
NEW RIVER UTILITY COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF
ITS UTILITY PLANT AND PROPERTY AND
FOR INCREASES IN ITS WATER RATES
AND CHARGES FOR UTILITY SERVICE
BASED THEREON.

DOCKET NO. W-01737A-12-0478

PROCEDURAL ORDER

BY THE COMMISSION:

On November 29, 2012, New River Utility Company ("New River") filed with the Arizona Corporation Commission ("Commission") an application requesting an order establishing the fair value of its plant and property used to provide water utility services and approving permanent rates and charges designed to produce a fair return thereon. New River asserted that its current rates and charges, established in Decision No. 65134 (August 22, 2002), are inadequate to provide New River a fair rate of return on the fair value of its plant and property devoted to public water utility service. New River asserted that for its test year ending December 31, 2011 ("TY"), it had adjusted gross revenues of \$1,260,429, adjusted operating income of \$3,629, and a fair value rate base ("FVRB") of \$7,812,036, resulting in a rate of return of 0.05 percent. New River requested an increase in revenues of \$1,087,457, or 86.28 percent, and asserted that this increase would result in a rate of return on its FVRB of 8.72 percent.

On December 21, 2012, New River filed several revised schedules to its application, to correct errors in the original schedules.

On December 28, 2012, the Commission's Utilities Division ("Staff") filed a Letter of Sufficiency stating that New River's rate application had met the sufficiency requirements as outlined in Arizona Administrative Code ("A.A.C.") R14-2-103 and that New River had been classified as a Class B Utility.

1 Pursuant to A.A.C. R14-2-103(B)(11)(a), it is now necessary and appropriate to establish a
2 procedural schedule in this matter.

3 IT IS THEREFORE ORDERED that the **hearing** in this matter shall commence on
4 **September 9, 2013, at 10:00 a.m.**, in Hearing Room No. 1 at the Commission's offices at 1200 West
5 Washington Street, Phoenix, Arizona 85007, and shall continue, as necessary, at **9:00 a.m. on**
6 **September 12 and 13, 2013.**

7 IT IS FURTHER ORDERED that the **pre-hearing conference** in this matter shall be held on
8 **September 4, 2013, at 1:00 p.m.**, in Hearing Room No. 1 at the Commission's offices in Phoenix,
9 Arizona.

10 IT IS FURTHER ORDERED that the **direct testimony** and associated exhibits to be
11 presented at hearing by **Staff or an intervenor** shall be reduced to writing and filed on or before
12 **June 26, 2013.**

13 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented
14 at hearing by **New River** shall be reduced to writing and filed on or before **July 19, 2013.**

15 IT IS FURTHER ORDERED that **surrebuttal testimony** and associated exhibits to be
16 presented by **Staff or intervenors** shall be reduced to writing and filed on or before **August 12,**
17 **2013.**

18 IT IS FURTHER ORDERED that **rejoinder testimony** and associated exhibits to be
19 presented at hearing by **New River** shall be reduced to writing and filed on or before **August 23,**
20 **2013.**

21 IT IS FURTHER ORDERED that **all testimony filed shall include a table of contents**
22 **listing the issues discussed therein.**

23 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m.** on the date the
24 filing is due, unless otherwise indicated above.

25 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**
26 **pre-hearing conference, copies of an issues matrix** setting forth all disputed issues in the case.
27 Each party's matrix shall indicate the position of each party on each disputed issue and shall indicate
28 whether the disputed issue remains in dispute or has been resolved and, if resolved, in what manner.

1 IT IS FURTHER ORDERED that any **objections to prefiled testimony or exhibits** shall be
2 made before or at the pre-hearing conference to be held in this matter.

3 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**
4 **to prefiled testimony**, with the exception of rejoinder testimony, shall be reduced to writing and filed
5 no later than five calendar days before the witness is scheduled to testify. Substantive corrections,
6 revisions, or supplements to prefiled rejoinder testimony shall be reduced to writing and presented on
7 the first day of hearing.

8 IT IS FURTHER ORDERED that each party shall prepare a brief, **written summary** of the
9 prefiled testimony of each of its witnesses and **shall file each summary at least two working days**
10 **before the witness is scheduled to testify.**

11 IT IS FURTHER ORDERED that copies of the summaries shall be served upon the
12 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties
13 of record.

14 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
15 except that **all motions to intervene must be filed on or before March 25, 2013.**

16 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and
17 regulations of the Commission, except that **until July 19, 2013**, any objection to discovery requests
18 shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be made
19 within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made within
20 5 calendar days and responses shall be made within 7 calendar days. The response time may be
21 extended by mutual agreement of the parties involved if the request requires an extensive compilation
22 effort or for other good cause.

23 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
24 receiving party requests service to be made electronically, and the sending party has the technical
25 capability to provide service electronically, service to that party shall be made electronically.

26
27
28 ¹ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. Arizona time will be considered as received the next business day.

1 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
 2 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
 3 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
 4 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
 5 that the party making such a request shall forthwith contact all other parties to advise them of the
 6 hearing date and shall at the hearing provide a statement confirming that the other parties were
 7 contacted.²

8 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed
 9 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall
 10 be deemed denied.

11 IT IS FURTHER ORDERED that any response to a motion shall be filed within five calendar
 12 days of the filing date of the motion.

13 IT IS FURTHER ORDERED that any reply shall be filed within five calendar days of the
 14 filing date of the response.

15 IT IS FURTHER ORDERED that **New River shall provide public notice of the hearing in**
 16 **this matter, in the following form and style, with the heading in no less than 18-point bold type and**
 17 **the body in no less than 10-point regular type:**

18 **PUBLIC NOTICE OF HEARING ON THE APPLICATION OF NEW RIVER**
 19 **UTILITY COMPANY FOR A PERMANENT RATE INCREASE**
 20 **(DOCKET NO. W-01737A-12-0478)**

21 **Summary**

22 On November 29, 2012, New River Utility Company ("New River") filed with the
 23 Arizona Corporation Commission ("Commission") an application requesting an order
 24 establishing the fair value of its plant and property used to provide water utility
 25 services and approving permanent rates and charges designed to produce a fair return
 26 thereon. New River asserted that its current rates and charges, established in Decision
 27 No. 65134 (August 22, 2002), are inadequate to provide New River a fair rate of return
 on the fair value of its plant and property devoted to public water utility service. New
 River asserted that for its test year ending December 31, 2011 ("TY"), it had adjusted
 gross revenues of \$1,260,429, adjusted operating income of \$3,629, and a fair value
 rate base ("FVRB") of \$7,812,036, resulting in a rate of return of 0.05 percent. New
 River requested an increase in revenues of \$1,087,457, or 86.28 percent, and asserted
 that this increase would result in a rate of return on its FVRB of 8.72 percent. Under

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 New River's proposal, the regular monthly bill for a residential customer served by a
2 5/8" x 3/4" meter, with average monthly usage of 11,183 gallons, would increase from
3 \$20.92 to \$37.67, an increase of \$16.75 or 80.07%.

4 The Commission's Utilities Division ("Staff") is in the process of auditing and
5 analyzing the application, and has not yet made any recommendations regarding New
6 River's proposed rate increase. The Commission will determine the appropriate relief
7 to be granted based on the evidence presented by the parties. **THE COMMISSION
8 IS NOT BOUND BY THE PROPOSALS MADE BY NEW RIVER, STAFF, OR
9 ANY INTERVENORS; THEREFORE, THE FINAL RATES APPROVED BY
10 THE COMMISSION MAY DIFFER FROM AND MAY BE HIGHER OR
11 LOWER THAN THE RATES REQUESTED BY NEW RIVER OR
12 RECOMMENDED BY OTHER PARTIES.**

13 How You Can View or Obtain a Copy of the Rate Proposal

14 Copies of the application and proposed rates are available from New River
15 [COMPANY INSERT HOW AND WHERE AVAILABLE] and at the
16 Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for
17 public inspection during regular business hours, and on the Internet via the
18 Commission's website (www.azcc.gov) using the e-Docket function.

19 Arizona Corporation Commission Public Hearing Information

20 The Commission will hold a hearing on this matter in Hearing Room No. 1 at the
21 Commission's offices at 1200 West Washington Street, Phoenix, Arizona 85007. The
22 **hearing will commence on September 9, 2013, at 10:00 a.m.** Oral public comments
23 will be taken on the first day of hearing.

24 Written public comments may be submitted by mailing a letter referencing Docket No.
25 W-01737A-12-0478 to Arizona Corporation Commission, Consumer Services Section,
26 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may
27 contact the Consumer Services Section at 1-800-222-7000.

28 About Intervention

The law provides for an open public hearing at which, under appropriate
circumstances, interested parties may intervene. Any person or entity entitled by law
to intervene and having a direct and substantial interest in the matter will be permitted
to intervene. If you wish to intervene, you must file an original and 13 copies of a
written motion to intervene with the Commission no later than **March 25, 2013**, and
send a copy of the motion to New River or its counsel and to all parties of record.
Your motion to intervene must contain the following:

1. Your name, address, and telephone number, and the name, address, and
telephone number of any person upon whom service of documents is to
be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a customer of
New River, a shareholder of New River, etc.); and
3. A statement certifying that you have mailed a copy of the motion to
intervene to New River or its counsel and to all parties of record in the
case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
that all motions to intervene must be filed on or before March 25, 2013. If
representation by counsel is required by Arizona Supreme Court Rule 31, intervention
will be conditioned upon the intervenor obtaining counsel to represent the intervenor.

For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the record of the case.

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail SAbernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that New River shall, **as soon as possible, but no later than February 11, 2013, mail** to each of its customers a copy of the above notice **and cause a copy** of such notice **to be published at least once in a newspaper(s) of general circulation in New River's service territory.**

IT IS FURTHER ORDERED that New River shall **file certification of mailing and publication** as soon as possible after the mailing and publication have been completed, but **no later than March 4, 2013.**

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication of same, notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
4 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
5 hearing.

6 DATED this 3rd day of January, 2013.

7
8 
9 SARAH N. HARPRING
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered
12 this 3rd day of January, 2013, to:

13 Jeffrey W. Crockett
14 BROWNSTEIN HYATT FARBER SCHRECK LLP
15 One East Washington Street, Suite 2400
16 Phoenix, AZ 85004
17 Attorneys for New River Utility Company

18 Janice Alward, Chief Counsel
19 Legal Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, AZ 85007

23 Steven M. Olea, Director
24 Utilities Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington Street
27 Phoenix, AZ 85007

28 ARIZONA REPORTING SERVICE, INC.
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004-1481

By: 

Debbi Person
Assistant to Sarah N. Harpring